

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TECHGUARD SECURITY, L.L.C.,)	
)	
Plaintiff and Counterclaim)	
Defendant,)	
)	
vs.)	Case No. 4:08CV1489 AGF
)	
JAMES B. JOYCE,)	
)	
Defendant and Counterclaim)	
Plaintiff.)	

ORDER

On November 11, 2009, Plaintiff TechGuard, L.L.C., (“TechGuard”) filed a motion for “Judgment on the Pleadings” as to Counts III and XI, of its Second Amended Complaint, and Counts III, IV, and V of Defendant James Joyce’s (“Joyce”) Counterclaim. This motion is more properly characterized as one for summary judgment, because it relies on matters outside the pleadings. Under Federal Rule of Civil Procedure 12(d), the motion must be treated as one for summary judgment. Although the motion is based on the same record as the parties’ previous motions for summary judgment, the Court will follow the mandate of Rule 12(d) and convert TechGuard’s motion to one for summary judgment and allow Joyce an additional 21 days to file any additional response, or to notify the Court that he wishes a ruling on the motion as briefed to date.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s Motion for Judgment on the

Pleadings (Doc. #70) is converted to a Motion for Summary Judgment. Defendant shall have 21 days from the date of this Order to file any additional response to the motion, or to notify the Court that he wishes a ruling on the motion as briefed to date.

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 28th day of December, 2009.